

Remarks

Reconsideration of the application is respectfully requested in view of the foregoing amendments and following remarks. Please cancel claims 2 and 8-12. Now independent claims 6, 7, and 13, have been amended to include the language upon which they formerly depended. Please add new claims 14-19. Upon entry of this amendment, claims 1, 3-7 and 13-19 remain in the application.

Formal Request For Interview

Upon reviewing this response, if any issues remain, the Examiner is formally requested to contact the undersigned prior to issuance of the next Office Action in order to arrange a telephonic interview. It is believed that a brief discussion of the merits of the present application may expedite prosecution. Applicants submit the foregoing formal Response so that the Examiner may fully evaluate Applicants' position, thereby enabling the interview to be more focused. This request is being submitted under MPEP § 713.01, which indicates that an interview may be arranged in advance by a written request.

Patentability Over Herz, Yoshinobu, and Alexander

The Office asserts a novelty rejection of claims 1 and 8-13 over Herz, U.S. Patent No. 5,758,257 ("Herz"). The Office asserts a rejection of claim 2 as obvious over Herz in view of Yoshinobu, U.S. Patent No. 5,734,444 ("Yoshinobu"). The Office asserts a rejection of claim 3 as obvious over Herz in view of Yoshinobu and Hendricks, U.S. Patent No. 5,600,364 ("Hendricks"). The Office asserts a rejection of claims 4-6 as obvious over Herz and Yoshinobu in view of Alexander, U.S. Patent No. 6,177,931 ("Alexander"). The Office asserts a rejection of claim 7 as obvious over Herz and Yoshinobu in view of Alexander and Lazarus, U.S. Patent No. 5,652,613 ("Lazarus"). Applicants respectfully traverse.

Claim 6

Applicants respectfully assert that the Office has failed to carry the burden of establishing obviousness of claim 6, because the asserted Herz-Yoshinobu-Alexander combination fails to teach or suggest "maintaining the copied video program after viewing." For at least this reason, claim 6 is allowable.

For example, the Office directs Applicants to the following language of Alexander:

Shows added to the Record/Watch Schedule may be set to be viewed: once, daily, or weekly. The Watch feature and related Action button labels operate in the same way as if scheduling a show to watch from the Grid. Col. 21, lines 50-54.

Applicants respectfully assert that the above passage in Alexander fails to teach or suggest “maintaining the copied video program after viewing.” Rather, this sentence is referring to how often the viewer would like to record or watch a selected (possibly periodic) TV show (see, Alexander e.g., col. 21, lines 63-77; Figure 6, record “Texas Ranger” weekly and record “Groundhog Day” once; col. 7 lines 63-65; col. 10, lines 2-7; col. 11, lines 10-11, and 45-49). If the viewer selects to record a show, the viewer then selects whether to automatically record the show “once, daily, or weekly.” If the user selects to watch the show, the user then selects whether to watch the show “once, daily, or weekly.” If “record” is selected, the show is recorded accordingly. If “watch” is selected, the TV is turned on and tuned to the show at the requested interval (col. 8, lines 9-12; col. 10, lines 2-6). In any event, the combination fails to teach or suggest “maintaining the copied video program after viewing.”

For at least this reason, claim 6 is allowable. Such action is respectfully requested.

Claims 1, 3

With respect to claim 3, Applicants respectfully submit that Hendricks at col. 38, lines 56-61 and col. 39, lines 3-6, fails to teach or suggest “copying to the store plural programs ... in accordance with the ranking.” Further, amended claims 1 and 3 depend from claim 6. Since they depend from claim 6, they should be allowed for at least the reasons stated for claim 6. In view of the foregoing discussion of claim 6, the merits of the separate patentability of dependent claims 1 and 3 is not further belabored at this time. For at least these reasons, claims 1 and 3 should be allowable. Such action is respectfully requested.

Claim 7

Applicants respectfully assert that the Office has failed to carry the burden of establishing obviousness of claim 7, because the asserted Herz-Yoshinobu-Alexander-Lazarus combination fails to teach or suggest “wherein as space is needed, said copied video programs are overwritten

in the following priority, first overwrite viewed copied video programs, then overwrite non-viewed copied video programs.” For at least this reason, claim 6 is allowable.

For example, the Office directs Applicants to the following language of Lazarus:

The triage routine 140 of the present invention performs an information prioritization function, quantifying the current value of the information associated with each program record so that the least valuable information can be tagged and deleted on a real-time basis. Col. 5, lines 22-26 (see also col. 4, lines 21-19 and col. 2, lines 56-64).

The Office asserts that the recited language “discloses overwriting viewed copied video programs.” See Office Action, mailed April 20, 2005, at page 9. Applicants respectfully submit that the above passages in Lazarus fail to teach or suggest the recited arrangement. For example, Lazarus is describing how to manage scheduling information for an electronic programming guide (EPG). The “program record” described in Lazarus is “obsolete schedule information” in the EPG, not copied video programs. Col. 2, line 54.

In order to establish obviousness, the recited combination must teach or suggest each and every element of the recited claim language. In any event, the combination fails to teach or suggest “copied video programs are overwritten in the following priority, first overwrite viewed copied video programs, then overwrite non-viewed copied video programs.”

For at least this reason, claim 7 is allowable. Such action is respectfully requested.

Claim 13

Applicants respectfully assert that the Office has failed to carry the burden of establishing a novelty rejection of claim 13, because Herz fails to teach or suggest “automatically cycles through plural selections in the determined affinity grouping.” For at least this reason, claim 13 is allowable.

For example, the Office directs Applicants to the following language of Herz:

Such a technique may also be used to monitor changing preferences and even changes in demographics for the customers connected to each node by periodically updating the clustered customer profiles for that node to reflect the changes in the customer profiles of those customers connected to a particular node. Col. 48, lines 42-47.

Applicants respectfully assert that the above passage in Herz fails to teach or suggest “automatically cycles through plural selections in the determined affinity grouping.” For at least this reason, claim 13 is allowable. Such action is respectfully requested.

Claim 4, 5

With respect to claim 5, Applicants respectfully submit that Alexander at col. 30, lines 53-58, fails to teach or suggest “listing the copied video program in an electronic program guide associated with the system, together with a viewing channel on which the copied video can be viewed.” Further, amended claims 4 and 5 depend from claim 13. Since they depend from claim 13, they should be allowed for at least the reasons stated for claim 13. In view of the foregoing discussion of claim 13, the merits of the separate patentability of dependent claims 4-5 are not further belabored at this time. Claims 4 and 5 should be allowable. Such action is respectfully requested.

Claim 14

New claim 14 is allowable for at least the reasons stated above for claim 7. Such action is respectfully requested.

Claims 15-19

New claims 15-19 depend from claim 14. Since they depend from claim 14, they should be allowed for at least the reasons stated for claim 14. In view of the foregoing discussion of claim 14, the merits of the separate patentability of dependent claims 15-19 are not belabored at this time. Claims 15-19 should be allowable. Such action is respectfully requested.


Conclusion

The claims in their present form should now be allowable. Such action is respectfully requested. The Office is respectfully reminded of the above "Formal Interview Request." The request is being submitted under MPEP § 713.01, which indicates that an interview may be arranged in advance by a written request.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

By



Daniel H. Bell
Registration No. 56,141

One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, Oregon 97204
Telephone: (503) 595-5300
Facsimile: (503) 228-9446